

SESSION OF 2022

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 2057**

As Amended by Senate Committee of the Whole

**Brief\***

Senate Sub. for HB 2057, as amended, would enact the Kansas Assistance Animals in Housing Act (Act).

***Documentation***

The bill would allow a housing provider, upon receiving a request for exemption from the housing provider's pet policy for the purpose of housing an assistance animal, to require the requestor provide reliable documentation of the disability-related need for the animal.

The housing provider would be prohibited from requiring documentation if the requestor's need is readily apparent or already known to the housing provider. The bill would allow a housing provider to require documentation of need for each animal, if the exemption request is for more than one assistance animal.

***Documentation Requirements***

The bill would allow a housing provider to ask that exemption requests be made on a standardized form, but not deny a request solely because the standardized form was not used, if the requestor would otherwise qualify for exemption.

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The bill would require any submitted documentation demonstrating that a person has a disability requiring the use of an assistance animal under the Fair Housing Act (42 USC § 3601 *et seq.*) or the Kansas Act Against Discrimination (KSA 44-1001 *et seq.*):

- Be in writing;
- Be made by a person with whom the individual requesting accommodation has a supportive relationship; and
- Document the disability-related need for the assistance animal.

The bill would allow a housing provider to require additional supporting documentation if a requestor does not satisfactorily demonstrate the need for the assistance animal or existence of the supportive relationship described above.

### ***Reasons for Denial***

The bill would allow a housing provider to deny an accommodation request made under the Act if:

- The accommodation imposes:
  - An undue financial and administrative burden to the housing provider; or
  - A fundamental alteration to the nature of the operations of the housing provider; or
- After conducting an individualized assessment, there is reliable, objective evidence that the assistance animal:
  - Poses a direct threat to the health and safety of others that cannot be reduced or eliminated by another reasonable accommodation;

- Causes substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation; or
- Has engaged in a pattern of uncontrolled behavior that the requestor has not taken effective action to correct.

The bill would allow a housing provider, in considering the reasonableness of an accommodation request, to consider the documented disability-related needs of other residents on the property, although the housing provider would be prohibited from denying an assistance animal solely due to the disabilities of other residents. The bill would direct the housing provider to attempt to balance the disability-related needs of all residents.

#### ***Payment of Damages and Deposits***

The bill would allow a housing provider to require payment of repair costs due to damage caused by an assistance animal under the Act. A housing provider would be prohibited from charging a pet deposit or fee for an assistance animal, even if such deposit or fee is required for other pet owners. A housing provider would also be prohibited from requiring special liability insurance for an assistance animal.

#### ***Liability, Rights, and Verification***

The bill would state that a housing provider shall not be liable for injuries or damages caused by a person's assistance animal permitted on the housing provider's property as a reasonable accommodation under applicable federal, state, or local law.

The bill would state that nothing in the Act shall be construed to:

- Require documentation of a specific diagnosis of disability or related need;
- Prohibit a housing provider from verifying the authenticity of submitted documentation;
- Limit the rights of an individual under applicable federal, state, or local laws; or
- Limit the liability of housing providers under such laws.

***Misrepresentation of Entitlement to an Assistance Animal in Housing***

The bill would create, in the Kansas Criminal Code, the crime of misrepresentation of entitlement to an assistance animal in housing, defined as:

- Misrepresenting to a housing provider that a person has a disability or disability-related need for an assistance animal in housing; or
- Making false statements for the purpose of obtaining documentation for the use of an assistance animal in housing.

An unlawful act under the bill would be:

- Upon first conviction, an unclassified nonperson misdemeanor, punishable by a minimum fine of \$25 and maximum fine of \$100;
- Upon a second conviction, a class C nonperson misdemeanor; and

- Upon a third or subsequent conviction, a class A nonperson misdemeanor.

The bill also would allow a housing provider to commence actions under current law to recover damages and terminate rental agreements against a person who misrepresents an entitlement to an assistance animal.

### ***Definitions***

The bill would define “assistance animal” to mean an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or that provides emotional support that alleviates one or more effects of a person’s disability. The term “assistance animal” would not include a pet.

The bill would define “housing provider” to mean any owner, property management company, property manager, government entity, condominium board, condominium association, cooperative or related entity, and any agent or employee thereof engaged in the selling, leasing, management, control, or governance of residential housing.

The bill would also define “conviction,” “disability,” “healthcare provider,” “reasonable accommodation,” and “supportive relationship.”

### **Background**

HB 2057, as introduced in the 2021 Session, concerned authorization of an alcoholic liquor manufacturer to obtain a drinking establishment license under certain conditions. [Note: The provisions of 2021 HB 2057 were included in the provisions of 2021 Senate Sub. for HB 2252, which was added to 2021 HB 2137 in Conference Committee and was signed by the Governor on May 19, 2021.]

The 2022 Senate Committee on Federal and State Affairs removed the contents of HB 2057 as introduced, inserted the contents of SB 360, and recommended a substitute bill be passed.

### ***SB 360 (Assistance Animals)***

SB 360 was introduced by the Senate Committee on Transparency and Ethics at the request of Senator Thompson.

#### ***Senate Committee on Federal and State Affairs***

In the Senate Committee hearing, representatives of the Apartment Association of Kansas City, Curry Real Estate Services, Cushman & Wakefield, the Kansas Manufactured Housing Association, and Yarco Company provided **proponent** testimony. The proponents indicated that the bill would protect housing providers against potential misrepresentation by animal owners, and would benefit individuals with disabilities who actually need assistance animal accommodations.

Written-only proponent testimony was provided by Senator Thompson and representatives of the Apartment Association of Kansas City, the Kansas Association of Realtors, the National Apartment Association, and Worcester Communities.

No other testimony was provided.

#### ***Senate Committee of the Whole***

The Senate Committee of the Whole amended the bill to remove references to an individual's disability and instead specify only the disability-related needs of individuals may be considered.

## **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on SB 360 as introduced, the Kansas Human Rights Commission indicates enactment of the bill would not cause the agency to incur additional expenses because the agency already accepts housing disability discrimination complaints involving the denial or restricted use of assistance animals. The agency further indicated that revenue from fines due to enactment of the bill cannot be estimated.

The Office of Judicial Administration (Office) indicates enactment of the bill could increase the number of cases filed in district court because it would create a new crime under the Act, which could result in more time spent by court employees and judges processing and deciding these cases. The Office estimates enactment of the bill could result in the collection of docket fees and fines assessed in those cases filed under the bill's provisions. According to the Office, a fiscal effect cannot be estimated.

Any fiscal effect associated with the enactment of the bill is not reflected in *The FY 2023 Governor's Budget Report*.

Kansas Assistance in Housing Act; assistance animal; housing provider; reasonable accommodation; misrepresentation of entitlement; crimes